



PLANNING COMMISSION STAFF REPORT APRIL 27, 2006

Project: PACIFIC STATES STEEL - (PLN2003-00219)

Proposal: To consider Vesting Tentative Tract Map 7442 and a Preliminary Grading Plan to subdivide 1.26 acres into six lots for the future development of single-family homes.

Recommendation: Approve, based on findings and subject to conditions.

Location: 1097 Kraftile Road in the Niles Planning Area.
APN 507-0050-010-01
(See aerial photo next page)

Area: 1.26-acre lot

People: KB Home, Applicant
Derek Farmer, Agent of Applicant
RJA Civil Engineers, Consultant
Pacific States Steel Corporation, Owner
Scott Ruhland, Staff Planner (510) 494-4453; sruhland@ci.fremont.ca.us

Environmental Review: A Mitigated Negative Declaration was prepared and circulated for this project.

General Plan: Low Density Residential, 5-7 dwelling units per acre

Zoning: R-1-6, Single Family Residential

EXECUTIVE SUMMARY:

The applicant has requested a Vesting Tentative Tract Map and Preliminary Grading Plan for the subdivision of a 1.26 acre lot into six lots for the development of six single-family homes. Development of the single-family homes is not proposed at this time. The applicant will also be installing two public streets with this project; an extension of Niles Boulevard to the Union City border, and the improvement of Kraftile Road to public street standards with a cul-de-sac as the terminus. The new Kraftile Road has been specifically designed to preserve nine landmark eligible London Plane trees that exist along the right-of-way.



Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Residential (City of Union City)
- South: BART Tracks, Quarry Lakes Beyond
- East: Residential
- West: Residential (City of Union City)

BACKGROUND AND PREVIOUS ACTIONS:

A City-initiated General Plan Amendment and Rezoning, PLN2004-00251, was approved on July 13, 2004. The purpose of that action was to change the land use of the project site from industrial to residential to facilitate residential development as contemplated by the Housing Element Implementation Program. The site was originally proposed to be rezoned for multi-family development, however, City Council directed staff to rezone the site for single-family residential compatible with existing neighborhood conditions.

PROJECT DESCRIPTION:

The applicant is requesting approval of a Vesting Tentative Tract Map and Preliminary Grading Plan for the development of six single-family homes on a 1.26 acre lot. Associated subdivision improvements include the installation/extension of two public streets with sidewalks and landscape planters and the installation of a sound wall along the adjacent railroad right-of-way. The lots have been designed to conform to the R-1-6 zoning district and meet the minimum width and depth standards. The proposed lot sizes range from 6,220 square feet to 9,650 for the flag-lot #5.

The two public streets associated with the project include an extension of Niles Boulevard to the Union City border and an improved Kraftile Road to City standards. The extension of Niles Boulevard includes the installation of a sidewalk and planter strip for street trees. A sound wall will be included on the south side to mitigate noise from the railroad. Niles Boulevard will terminate at the Fremont/Union City border where Gold Street exists on the Union City side. Vehicular access will be prohibited by a four to five foot high decorative gate that will be installed on the Union City side of the road. However, pedestrian and bicycle access will be allowed as the gate design includes openings for bicycles on the street and a sidewalk which will connect to the Union City sidewalk.

Kraftile Road will be improved to public street standards with temporary cul-de-sac until such time that the properties to the north/northeast develop. When those properties develop the street would be extended with permanent cul-de-sac as shown on Sheet 4 of Exhibit "A". This cul-de-sac was designed to preserve two London Plane trees that would be located in the center of the road. Special design consideration has also been incorporated into the Kraftile Road design to preserve nine London Plane trees that currently exist along the right-of-way. A more detailed analysis of the proposed street improvements is provided in the *Design Analysis* portion of the report.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Low Density Residential, 5-7 units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site because the proposed lots would allow single-family development that conforms to the density range for the site. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

- ***Housing Goal 2*** – *High quality and well-designed new housing of all types throughout the City.*
- ***Land Use Goal 1*** – *New housing development while conserving the character of the City's existing single family residential neighborhoods.*

The project conforms to this policy because it conserves and will improve the quality and character of nearby residential neighborhoods by providing/extending public streets and preserving landmark status London Plane trees.

- ***Land Use Policy 1.1*** – *Residential as the primary use allowed in residentially designated areas. The type of residential use depends on the permitted density and other criteria to protect neighborhood character and the safety and welfare of residents.*

The project conforms to this policy because residential is the primary use being proposed in this residentially designated area in conformance with the allowable density.

Zoning Regulations:

As set forth in Section 8-2601 of the Fremont Municipal Code (FMC), single-family homes are allowed in the R-1-6 district subject to staff review and approval. The proposed lots meet the minimum size (6,000 square feet), width (55 feet) and depth (100 feet) standards of the R-1-6 district and the future development of the six single-family dwellings will also be reviewed for conformance of the R-1-6 district setback and height requirements and all other Zoning Ordinance provisions applicable to the project.

Design Analysis:

Circulation:

Vehicular and pedestrian access to the site is provided from the Niles Boulevard and Kraftile Road. New roadway improvements, including public sidewalks, will be constructed with the subdivision improvements. See "Street Improvements" discussion below for further details.

- **Interim Access:** The site is adjacent to a new KB Home subdivision in Union City. In 2002, KB Home requested temporary vehicle and pedestrian access from Niles Boulevard, across the project site, and into Union City. The temporary access was to be used for public access and services to the new Union City subdivision. Permanent vehicular access for the Union City subdivision will be from 11th Street in Union City.

The temporary access road was constructed by KB Home and continues to be used for public access. The project intends to convert the existing public access into a new public street to connect to Gold Street in Union City. Though the public streets will connect, motorized vehicle access will be limited to emergency vehicles only to reduce potential traffic impacts to Niles Boulevard. A decorative wrought iron gate will be installed on the Union City side to prevent automobiles from driving between Union City and Fremont. Pedestrian and bicycle traffic will be permitted via a sidewalk connection and 5-foot wide opening in the gate.

Street Improvements:

The project is a subdivision to create six single-family lots, each with frontage on a public street. The streets in question are Niles Boulevard, which formerly extended into Union City via an at-grade railroad crossing, and Kraftile Road, which is an existing private street that served as the entrance to the former Kraftile factory (now a residential subdivision). Right-of-way dedication and street improvements are required for both Niles Boulevard and Kraftile Road.

- Niles Boulevard: Niles Boulevard formerly connected at-grade to Alvarado-Niles Boulevard. With this project, Niles Boulevard will be realigned at Kraftile Road and extend to Gold Street, a new public street within Union City. The extension of Niles Boulevard will be as a residential frontage road with a 48-foot street right-of-way, 30-foot pavement width, a standard landscape strip and sidewalk on the project side, and a wall and landscaping along the railroad property. On-street parking will be prohibited on one side of the street (adjacent to the wall).

The developer shall dedicate the street right-of-way and install street improvements as shown on the tentative map. The developer shall also form a landscape maintenance district for the ongoing maintenance and upkeep of the landscaping and sound wall along the railroad. The developer shall construct full width street improvements for the extension. Street improvements include, but are not limited to: removing existing temporary access road improvement, installing pavement, curb, gutter, sidewalk, landscaping, sound wall, street lights, fire hydrants, and utilities.

- Kraftile Road: Formerly a tree-lined driveway to the Kraftile factory, Kraftile Road is currently a private street that provides access to eight different properties. Each existing property, on Kraftile Road, extends to the centerline of a 50-foot wide access easement. The project will convert Kraftile Road from a private street into a public minor residential street along the project frontage. The public street will terminate with a temporary cul-de-sac bulb at the northern boundary of the subdivision. The temporary cul-de-sac bulb will be removed when Kraftile Road is extended to the north.

The developer shall install complete street improvements for Kraftile Road along the project frontage, as shown on the tentative map. Street improvements include, but are not limited to: installation of pavement, curb, gutter, sidewalk, landscaping, streetlights, fire hydrants, and utilities. The temporary cul-de-sac bulb will be improved with a temporary monolithic sidewalk and temporary driveways. No on-street parking will be permitted in the temporary cul-de-sac. The developer shall provide a cash payment for the estimated costs for removal of the temporary cul-de-sac bulb and for the cost of completing permanent street improvements in front of Lot 4 and 5. The cash payment shall be made to the City of Fremont prior to approval of the final map.

- Tree Preservation: Staff has worked with the developer, project civil engineer, and consulting arborists to preserve the existing trees along the east side of Kraftile Road. Preservation of these trees is consistent with Tract 6977, Niles Glen, to the north, which preserved trees within the front yards of several lots along Saltillo Place. In this case, the trees are outside of the boundary of the subdivision, but are affected by the proposed street design.

In order to preserve the trees, the City's consultant arborist, Sealana & Associates, prepared a report recommending specific clearances from the trees and special construction materials and methods around the trees. The street alignment conforms to the arborist's recommendations. Arboricultural-grade structural soil, which facilitates sustainable root development, shall be used as an alternate street pavement section around the trees. The subdivision improvement plans and specifications shall conform to the recommendations in the Sealana report.

- **Conceptual Layout for Kraftile Road:** At staff's request, the developer has prepared a conceptual design for the extension of Kraftile Road to the north (Exhibit "A", sheet 4). This plan is for informational purposes only, but it serves to show how a public street could be extended and terminated with a standard cul-de-sac bulb. The concept includes a median within the street to preserve two Sycamore trees. Future development along Kraftile Road will be reviewed for conformance with City standards, including tree preservation.

Grading & Drainage:

The project site formerly contained a single-family residence and an entrance to the Pacific States Steel Corporation property in Union City. The single-family residence has been demolished. Recently the site was used for temporary construction office trailers associated with KB Home's 119-unit single-family residential subdivision in Union City. The trailers have been removed and the site is now mostly bare dirt and gravel, slopes slightly to the east, with an average ground elevation of approximately 47 feet.

Grading for the project is estimated at 800 cubic yards of cut and 4,840 cubic yards of fill. The majority of the grading is to create building pads for the six single-family lots. The building pads are proposed with as much as 4 feet of fill above existing grade. Building pads are designed to drain towards the street. The grading is designed to generally conform to the existing residential use to the north and the new houses to the west.

The storm drain system for the project consists of a conventional public storm drain within Niles Boulevard and Kraftile Road. Along the east side of Kraftile Road, the design proposes creation of a drainage swale and installation of catch basins behind the curb line. This is due to the elevation of the existing homes and the need to capture runoff from the new public street. Lot 5 includes provisions to intercept surface runoff from the adjacent property to the north. Final grading and drainage shall be subject to review and approval of the City Engineer, prior to final map approval. Individual lot grading and drainage shall be reviewed and approved concurrently with the building permit for each house.

Environmental Review:

An Initial Study and Mitigated Negative Declaration has been prepared and circulated for this project. The environmental analysis identified concerns regarding potential impacts to noise and vibration, tree preservation, wildlife resources and air quality. The Mitigated Negative Declaration and associated Mitigation Monitoring Plan include mitigation measures, which will reduce the identified impacts to non-significant levels. These measures include acoustical attenuation methods to reduce effects of noise from the nearby railroad; dust suppression methods to reduce impacts to air quality; and, specific landscape and tree requirements.

The City received one comment from the State of California Department of Fish & Game (DFG) regarding the Mitigated Negative Declaration. DFG recommends that any trees proposed for removal are

removed outside the nesting season for migratory birds and raptors. If that is not feasible, then appropriate wildlife surveys should be conducted by a qualified biologist. The new mitigation measure will be included in the Mitigated Negative Declaration. A copy of the Response to Comments is attached.

A finding is proposed that the Mitigated Negative Declaration prepared for this project, PLN2003-00219, adequately addresses potential impacts and the project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 60 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on April 14, 2006. A Public Hearing Notice was published by The Argus on April 17, 2006.

ENCLOSURES:

Exhibits:

- Exhibit "A" Vesting Tentative Tract Map 7442 and Preliminary Grading Plan
- Exhibit "B" Findings and Conditions of Approval
- Mitigated Negative Declaration, Mitigation and Monitoring Report Program and Response to Comments

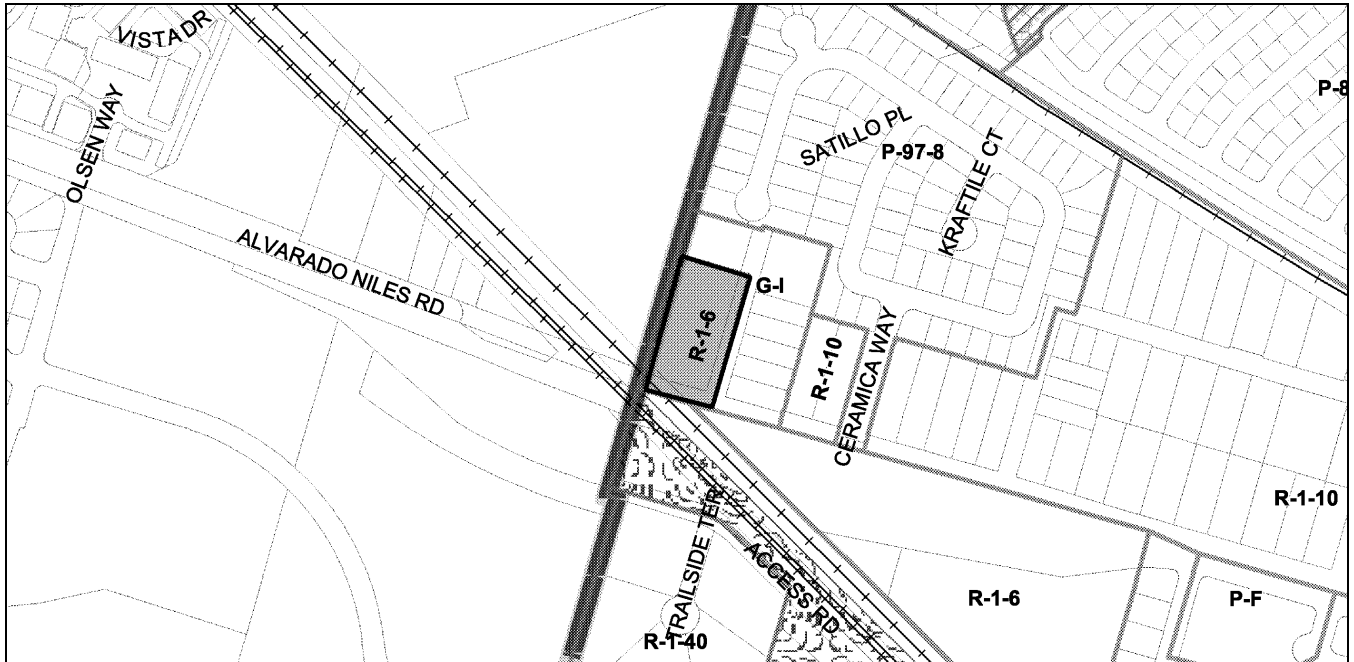
Informational Items:

- 1. Initial Study
- 2. Vehicular Gate Detail

RECOMMENDATION:

- 1. Hold public hearing.
- 2. Find that the Mitigated Negative Declaration prepared and circulated for the project adequately addresses potential impacts and the identified mitigation measures will reduce potential impacts to less than significant levels and further find that this action reflects the independent judgment of the City of Fremont.
- 3. Approve the Mitigation Monitoring Plan for Pacific States Steel (PLN2003-00219)
- 4. Find Vesting Tentative Tract Map 7442 and Preliminary Grading Plan are in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing and Land Use Chapters as enumerated within the staff report.
- 5. Approve Vesting Tentative Tract Map 7442 and Preliminary Grading Plan, as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan



EXHIBIT "B"
PACIFIC STATES STEEL
PLN2003-00219

VESTING TENTATIVE TRACT MAP 7442 & PRELIMINARY GRADING PLAN

VESTING TENTATIVE TRACT MAP FINDINGS

The following findings are made based upon the information contained in the staff report to the Planning Commission dated April 27, 2006, as well as information presented at the public hearing, incorporated hereby:

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards as stipulated in the R-1-6 zoning district.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan and any applicable specific plan, because the proposed development conforms to the requirements of the zoning district as well as the Low Density Residential General Plan land use designation for the site.
3. The site is physically suitable for the type and proposed density of the development, because it is consistent with the General Plan and zoning designations for the site and all environmental issues are addressed or will be mitigated.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because of the mitigation included in the project and the overall design and location of the development.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems, because the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision because the design of Kraftile Road has accounted for the required easements. Acquisition of any new easements will be required prior to the acceptance of the Final Map for this project.

PRELIMINARY GRADING PLAN FINDINGS

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, that substantially and/or negatively affects the site.

2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the site.
3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the City Engineer upon city review of the reports. The proposed development is not located where there is evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
5. The proposed project described in the application will not negatively impact the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

TENTATIVE MAP CONDITIONS OF APPROVAL

1. The project shall conform to Exhibit "A" (Vesting Tentative Map 7442) and all conditions of approval set forth herein.
2. Approval of this Vesting Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
3. The tentative map application submitted by developer includes dedication of property not owned or controlled by developer for street right of way ("Off-Site Street Right-of-way"). Developer acknowledges it has requested the Off-Site Street Right-of-way to be included in its project, and that such inclusion is not a City-imposed requirement. Prior to filing the final map with the City, the developer shall acquire sufficient interest or title to the Off-Site Street Right-of-way and the developer shall to provide the City a grant deed for public streets and utilities over the Off-Site Street Right-of-way. In the event the developer is unable to acquire sufficient title or interest in the Off-Site Street Right-of-way, developer shall file an amendment to the tentative map to exclude the Off-Site Street Right-of-way. The developer is notified that the amendment to the tentative map is subject to review and approval of the City, which may result in revisions to the development plan. Developer agrees that City shall have no obligation to use its powers of eminent domain to acquire an interest in the Off-Site Street Right-of-way, and developer and all successors in interest waive any and all rights they may assert under Government Code Section 66462.5 to require City to exercise its power of eminent domain.

4. The Subdivider shall dedicate right-of-way and install complete street improvements for Niles Boulevard and Kraftile Road, as shown on the tentative map. All required dedications and street improvements are subject to review and approval of the City Engineer prior to final map approval. The following are the minimum dedication and street improvement requirements for these public streets.
- a. Niles Boulevard: The developer shall dedicate street right-of-way width of 48 feet and construct a minor residential frontage road with a pavement width of 30 feet. The subdivider shall install complete street improvements for the full width of Niles Boulevard. Street improvements include, but are not limited to: removing the temporary access road and driveway, installation of pavement, curb, gutter, sidewalk, landscape, irrigation, streetlights, sound wall, fire hydrant, and storm drain facilities.
 - b. Kraftile Road: The subdivider shall dedicate street right-of-way width of 62.5 feet and construct a minor residential street with a pavement width of 32 feet. The subdivider shall install complete street improvements as shown on the tentative map. Street improvements include, but are not limited to: installation of pavement, curb, gutter, sidewalk, landscape, irrigation, streetlights, fire hydrants, utilities, and storm drain facilities. Standard type "A" curb and gutter shall be installed on both sides of Kraftile Road.
 - c. Temporary Kraftile Road Cul-de-sac: The subdivider shall dedicate a temporary roadway easement and construct a temporary 32-foot radius cul-de-sac bulb at the end of the public street right-of-way in front of Lots 4 and 5. The temporary cul-de-sac is in-lieu of permanent curb, gutter, landscaping, and sidewalk in front of Lots 4 and 5. The subdivider shall provide cash in-lieu of constructing permanent street improvements on Kraftile Road within the temporary roadway easement. The in-lieu amount shall include the estimated cost to remove the temporary improvements and the in-lieu amount shall be determined at the time of the final map.
 - d. Off-site Right-of-way Dedication and Street Improvements: The developer shall acquire and dedicate the off-site street right-of-way for Kraftile Road as shown on the tentative map (see condition "3" above). The developer shall install the off-site street improvements for Kraftile Road, as shown on the tentative map (see also condition "b" above).
 - e. Street Tree Preservation on Kraftile Road: The existing London Plane trees to be preserved along Kraftile Road require special construction measures. The subdivision improvement plans and specifications shall conform with the tentative map and with the December 2005, Sealana & Associates report entitled, "Consulting Arborist Report for the project: Kraftile Road – Tree Impact Analysis." The tree preservation measures include, but are not limited to: arborist supervision of construction within the critical root zone (CRZ) of each tree, use of arboricultural-grade structural soil within the street area around the trees, installation of tree protection around the trees during demolition and construction, and pruning the trees. The tree preservation measures are subject to review and approval of the City Landscape Architect and City Engineer. The subdivision improvement plans and specifications may be referred for peer review to the City's on-call arborist. The developer shall pay peer review fees.

5. The subdivider shall establish a Lighting and Landscape Maintenance District to facilitate the periodic maintenance of the wall and landscaping on the southwest side of Niles Boulevard, across the street from Lot 1 and Lot 6.
6. A minimum six-foot wide public service easement shall be dedicated along the Niles Boulevard and Kraftile Road frontage of the six lots.
7. Existing private easements within either the proposed Niles Boulevard or Kraftile Road public street right-of-way shall be quitclaimed prior to approval of the final map.
8. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
9. Existing overhead utilities within the subdivision boundary shall be removed. Utilities to remain shall be relocated underground in appropriate utility easements. Existing overhead utilities include, but are not limited to: the north-south overhead lines along the back of lot 5 and lot 6; the east west overhead lines across Kraftile Road, Lot 3, and Lot 5. The existing joint utility pole at near the southeast corner of Lot 1 shall be relocated. The new location is subject to review by the City Engineer.
10. The developer shall request P.G.&E. to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 7442.
11. The sound wall along Niles Boulevard, next to the railroad right-of-way, shall include holes along the base of the wall for the planting of vines to help prevent graffiti on both sides of the wall. Vines shall be planted with irrigation on the north side of the wall, but trained to grow through the holes and up the south of the wall. Vines will be established to the satisfaction of the City Landscape Architect, prior to acceptance of the street improvements for Niles Boulevard.
12. Prior to final map approval, the developer shall obtain an encroachment permit from the City of Union City for all improvements associated with connection of Niles Boulevard with Gold Street. Required improvements include, but are not limited to, the wrought iron gate, knox box, and the pavement, sidewalk, and utility connections. The encroachment permit shall include Union City approval of the public storm drain connection between Niles Boulevard and Gold Street. Required improvements shall be included on the improvement plans for Tract 7442 and are be subject to review and approval of the City Engineer.
13. Precise geometry and location of all driveways shall be subject to approval of the City Engineer. The temporary driveway for both lot 4 and lot 5 and the 20-foot wide driveway at the end of the cul-de-sac, are subject to review, modification, and approval of the City Engineer.
14. Pursuant to Government Code Section 66474.9, the Subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Fremont, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37.

The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.

15. Any development on the newly created lots will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park facilities, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit issuance.
16. All new utility service connections, including electrical and communications, shall be installed underground. Electrical transformers shall be installed in underground vaults within an appropriate utility easement or public service easement.
17. The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer.
18. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
19. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of on-site stormwater treatment measures. The agreement shall run with the land and be recorded at the same time that the final map is recorded.
20. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
21. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:

22. The project shall conform with Exhibit "A" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Vesting Tentative Map 7442, PLN2003-00219.

23. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
24. Approval of this Preliminary Grading Plan shall run concurrent with the approval and subsequent extensions of Vesting Tentative Tract Map 7442. Approval of this Preliminary Grading Plan shall terminate upon the expiration of Vesting Tentative Tract Map 7442.
25. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
26. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer. An erosion and sediment control plan shall be included as part of the grading plans.
27. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
28. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
29. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
30. The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections, prepared by a qualified soils engineer registered by the State of California. The soils report shall include specific recommendations for on site pavement areas that will experience repeated exposure to heavy vehicle loads.
31. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
32. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.

MISCELLANEOUS CONDITIONS

33. The developer shall comply with all Mitigation Measures as identified in the Mitigation Monitoring Program and identified below:

Mitigation Measure (MM) #1: Future construction on the properties shall comply with dust suppression measures. Dust generated on the project site shall be controlled by watering all

exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage. In areas where construction is delayed for an extended period of time, the ground shall be re-vegetated to minimize the generation of dust. A contact person shall be designated to oversee the implementation of dust control.

MM #2: The existing London Plane trees to be preserved along Kraftile Road require special construction measures. The subdivision improvement plans and specifications shall conform with the tentative map and with the December 2005, Sealana & Associates report entitled, "Consulting Arborist Report for the project: Kraftile Road – Tree Impact Analysis." The tree preservation measures include, but are not limited to: arborist supervision of construction within the critical root zone (CRZ) of each tree, use of arboricultural-grade structural soil within the street area around the trees, installation of tree protection around the trees during demolition and construction, and pruning the trees. The tree preservation measures are subject to review and approval of the City Landscape Architect and City Engineer. The subdivision improvement plans and specifications may be referred for peer review to the City's on-call arborist. The developer shall pay peer review fees.

MM#3: No known significant historical, paleontological or archaeological resource, site structure or object has been identified either on the project site or in the general area of the project site. There are no known unique cultural resources, and therefore, no potential for restrictions. However, should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) will be followed to reduce impacts to a non-significant level.

MM #4: At the time of development, a geotechnical study shall be prepared by the applicant at the building permit review stage. The study will ensure that the structures are built to minimize potential seismic safety issues as much as possible. The development will be subject to the recommendations in that study. Typical recommendations in such a study include the importation of non-expansive fill soil for the building pads, increased foundation trenching depths done relative to a non-expansive site, and appropriate surface soil compaction.

MM #5: At the time of development each site must comply with standard water pollution and erosion control measures following Best Management Practices will be implemented to prevent runoff and sedimentation from entering the channel. Emphasizing storm water Best Management Practices (BMP) intends to achieve compliance with the goals of the Alameda Countywide Clean Water Program (ACCWP), in conformance with the Federal National Pollutant Discharge Elimination System (NPDES) program established by the Clean Water Act.

MM#6: A 12 foot sound wall shall be constructed along the southern property line adjacent to the railroad to mitigate potential noise impacts. Final design and construction of the sound wall shall be subject to review and approval of City staff.

MM #7: Hours of construction shall be limited to 7 a.m. to 6 p.m. Monday through Friday, and 9 a.m. to 6 p.m. Saturday. No construction shall be permitted on Sundays.

34. Final design of the sound wall shall be subject to review and approval by staff during the Improvement Plan or Development Organization review.
35. Final design of the vehicle gate shall be subject to review and approval by staff during the Improvement Plan or Development Organization review.